

REMARKS

Claims 1-6 and 9-20 are pending in this office action prior to entering this amendment.

The applicants previously withdrew claims 7-8 and 21-24 responsive to a restriction requirement and now cancel them without prejudice.

The examiner rejects claims 1-6 and 8-20 under 35 U.S.C. § 103(a) as unpatentable over Blackard et al. (U.S. Pat. No. 5,918,020) in view of Shuster et al. (U.S. Pat. No. 6,360,271) and Jain (U.S. Pat. No. 6,259,677).

The applicants amend claim 1.

Claims 1-6 and 9-20 remain after entering this amendment.

The applicants add no new matter and request reconsideration.

Claim Rejections – 35 USC § 103**Blackard in view of Schuster and Jain: Claims 1-6 and 9-20**

The examiner rejects claims 1-6 and 9-20 as obvious over Blackard in view of Shuster and Jain. The applicants traverse the rejection for the reasons that follow.

The claims recite server side techniques to limit start up delay at a buffered receiver. In short, the recited server buffers data and bursts some data to the client before playout at the client. The applicants amend claim 1 to more clearly call out that the burst path is to be used before playout at the client.

Claim 1 recites a server comprising in part,

a burst path for transmitting data received from the source at a burst rate higher than the regular rate before playout at the client;
a second buffer in the burst path for buffering data from the source, and for transmitting the buffered data to the client at the burst rate before playout at the client;

The applicants agree with the examiner that Blackard, even in view of Schuster, does not disclose a second buffer in the burst path for buffering data from the source, and for transmitting the buffered data to the client at the burst rate before playout at the client. The examiner alleges Jain provides the missing link.

Jain discusses a real-time receiver and method for receiving and playing out real-time packetized data. The Jain receiver has a playout buffer (see FIG. 5, Playout Buffer 50) at the receiving end of a real-time transmission and uses packet variable delay estimates to directly adjust playout delay. Jain calculates packet jitter in part from measuring the difference

between a send timestamp and a receive timestamp. In particular, Jain "calculates packet jitter for each received packet as the difference between the minimum arrival time and the actual arrival time for that packet. Playout buffer delay is computed from packet jitter values" (column 5, lines 36-39).

Jain therefore adjusts playout *delay* at a *receiver* based on estimating delays of packet information that has traversed a network. Jain does not teach a transmitting or a retransmitting server including "a second buffer in the burst path for buffering data from the source, and for transmitting the buffered data to the client at the burst rate before playout at the client".

Since Jain does not cure the deficiencies of Blackard in view of Schuster, claim 1 is patentably distinguishable over the cited references. Claims 2-6 depend from claim 1. Since dependent claims necessarily contain the limitations of claims from which they depend, claims 2-6 are patentably distinguishable over the cited references for at least the same reasons as claim 1.

Claims 9 and 15 contain similar limitations as claim 1 but are applied to a retransmission server. The applicants again agree with the examiner that Blackard, even in view of Schuster, does not disclose a means for buffering the first portion and outputting the buffered portion to a client on the network through the first path at a first rate before playout at the client. The receiver discussed in Jain has a buffer at the receiving end of a real-time transmission and uses packet variable delay estimates to directly adjust playout delay. Jain teaches a receive buffer playout delay, and neither a transmitting or a retransmitting server "buffering the first portion and outputting the buffered first portion to a client on the network through the first path at a first rate before playout at the client" nor a transmitting or a retransmitting server including a means for "buffering the first portion and outputting the buffered first portion to a client on the network through the first path at a first rate before playout at the client".

Since Jain does not cure the deficiencies of Blackard in view of Schuster, claims 9 and 15 are patentably distinguishable over the cited references for at least the reasons as claim 1. Claims 10-14 depend from claim 9 and claims 16-20 depend from claim 15. Since dependent claims necessarily contain the limitations of claims from which they depend, claims 10-14 and 16-20 are patentably distinguishable for at least the same reasons as claims 9 and 15.

CONCLUSION

For the foregoing reasons, the applicants request reconsideration and allowance of all remaining claims. The applicants encourage the examiner to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



Graciela G. Cowger
Registration No. 42,444

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613
Customer No. 20575

I hereby certify that this correspondence
is being transmitted to the U.S. Patent and
Trademark Office via facsimile number
(571) 273-8300, on May 9, 2006.

Signature:

Judy Wigmore